

MEMBERS, OCONEE COUNTY COUNCIL MEMBERS

Ms. M. Fran Burrell, District I Mr. J. Harold Thomas, District II
Mr. Harry R. Hamilton, District III Mrs. Ann H. Hughes, District IV
Mr. Charles R. "Chuck" Timms

MINUTES, SPECIAL MEETING, OCONEE COUNTY COUNCIL

The Oconee County Council held a special meeting, Monday, December 8, 1997 at 3:00 pm in Council Chambers with Mr. Thomas, Mr. Hamilton & Mr. Timms present.

Members of The press notified (by mail):
Journal Tribune, Keowee Courier, Westminster News, Anderson Independent, Greenville News, WGOG Radio, WSNW Radio, WCCP Radio, WPEK Radio, The Times Upstate, Northland Cablevision, WYFF TV, WSPA TV & WLOS TV.

Press

Members of the press present: Terry Cregar - Greenville News.

The meeting was called to order by Supervisor -Chairman Orr.

Call to Order

The invocation was given by Mr. Timms.

Invocation

Mr. Timms, Member, Purchasing, Contracting, Real Estate, Building & Grounds Committee, informed Council it was the consensus of the committee to adopt the recommendation of the scoring committee to engage Trehel for the design/construction of the new motor pool at a total cost of \$56,700 for the schematic design, the design phase and construction phase for a \$500,000 building with a 10% contingency fund for unknowns that may occur during the construction of the building.

Motor Pool

This recommendation was adopted 3 - 0 (Mrs. Hughes & Ms. Burrell absent).

Mr. Orr assigned the attached two items regarding Bayshore Estates & Crooks Road to the Roads & Transportation Committee.

Roads

Mr. Timms requested that Mr. Mike Shealy, Director, SC State Budget & Control Board be invited to a Council Meeting to discuss the importance of the county's awareness of the state's infrastructure plan.

Infrastructure Plan

Council discussed meeting with the Legislative Delegation once a month to discuss issues that will effect local governments.

Meet with Delegation

Council scheduled a public hearing Tuesday, January 20, 1998 at 3:00 pm to receive written and/or oral comments regarding Ordinance 97-13, 'COMMUNITY FACILITIES PLAN'.

Public Hearing

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Mr. Thomas made a motion, seconded by Mr. Hamilton, approved 3 - 0 (Mrs. Hughes & Ms. Burrell absent) that Council go into executive session to discuss legal and contractual matters.

**Executive
Session**

When open session resumed, Council requested that the Purchasing Agent get specifications and bid a waste reducer machine for Solid Waste.

**Open
Session**

Adjourn: 4:35 pm

Adjourn

Submitted By:

Opal O. Green
Opal O. Green
Council Clerk

Reviewed By:
Harrison E. Orr
Supervisor-Chairman
Oconee County Council

BALLENGER, FEDDER, CAIN & NORTON, L.L.P.
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W.J. Fedder (Of Counsel)
Timothy M. Cain, P.A.
Bradley A. Norton

William H. Ballenger (1922-1997)
Karen F. Ballenger

December 5, 1997

Mr. Harrison E. Orr
Supervisor - Chairman
Oconee County Council
208 Booker Drive
Walhalla, SC 29691

Re: Bayshore Estates

Dear Harrison:

You have requested that my office assist in the review of a request for action by the owner of lots 14 and 15, Section VII Bayshore Estates. As I understand it, this property owner has requested that the County take action to clear what is perceived to be an obstruction or occlusion of the County right-of-way on Long Shore Avenue, which is a county-maintained road. Long Shore Avenue intersects with a private road or way which, according to the subdivision plats provided by this citizen, is platted as a forty foot (40') wide access road leading from Long Shore Drive to Lake Hartwell. This private road is used by residents of Bayshore VII to gain access to the lake and, as such, from time to time, persons on foot and in motor vehicles are exiting from and entering onto the County road via the entrance to the access road. It is my understanding that the access road has ditches on each side which provide drainage from the County road and other portions of the subdivision, which are at a higher elevation than the access road.

This property owner has complained that the owners of lots 67 and 68 of Bayshore VII have created obstructions within the right-of-way on each side of the access road which have intruded into the 40 foot wide road or way. Additionally, there is a complaint that the obstruction of the ditches along the access road causes water to back up into the area on lot 15 during periods of heavy rain.

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You have requested that this office make recommendations as to how the County may proceed in this matter.

I would recommend that a determination be made as to the extent of the County right-of-way for Long Shore Drive and whether written easements for surface water were obtained from the developer prior to acceptance of the roads in the subdivision by the County.

If confirmation can be obtained that the County has a 50' foot right-of-way (as shown on the subdivision plats furnished by the property owner) a determination should be made by staff, if possible, as to whether there exists obstruction(s) within the County right-of-way which could reasonably impair visibility to persons making use of the access road and thereby entering the County road. If this is the case, the County may request the owners of lots 67 and 68 to clear and remove the obstructions within a short but reasonable time frame. If the owners fail to comply with this request, the County may: (1) take no action, (2) clear the right-of-way, or (3) bring a declaratory judgement action to request that the Court determine the extent of the right-of-way and require the lot owners to clear the same and/or allow the County to clear the right-of-way and attach the cost to the lot owners as a money judgement.

As to the drainage problem, since the ditches are on private property, the County should request that the owners of Lots 67 and 68 and the Property Owner's Association take appropriate action to clear the obstructions to the drainage ditches and, absent cooperation in this effort, again seek a declaratory judgement as to the ability of the County to do so. If no drainage easement can be found, it may be that the County has a good argument that a prescriptive easement exists for drainage purposes. Absent a written drainage easement or order of the Court, I would not recommend that the County clean out the drainage ditches.

As to the alleged obstructions within the private access road, I do not see that the County has standing to address this issue.

If a Court action is to be pursued, approval should be obtained from the County Council.

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Please let me know once you have had the opportunity to review this information. Necessarily, should there be any questions, please advise.

Thanking you for your attention to this matter, I remain,

Sincerely,

BALLENGER, FEDDER, CAIN & NORTON, L.L.P.



Timothy M. Cain

TMC/mdb
cc: Mr. Hoyt Orr

BALLENGER, FEDDER, CAIN & NORTON, L.L.P.

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December 5, 1997

Mr. Jon Caime
County Engineer
Oconee County Mail Room
208 Booker Drive
Walhalla, SC 29691

Re: Crooks Road

Dear Jon:

This letter will follow up your inquiry of December 2, 1997 concerning the requirements for closure of a portion of Crooks Road (SE-50) located near the Seneca landfill.

State Law provides that a political subdivision of the State (which would include Oconee County) may petition a court of competent jurisdiction to abandon or close any street, road or highway whether opened or not. Prior to filing the petition with the Court, notice of intention to file the same must be published once a week for three consecutive weeks in a newspaper published in the County. The newspaper should be one of general circulation designed to give notice to any interested parties of the pending petition. Notice must also be sent by mail requiring a return receipt, to the last known address of all abutting property owners whose property would be affected by the closure of the road.

Prior to sending or publishing the notices or filing the petition with the Court, approval for such action should be obtained from the County Council. The County can proceed with this action upon the majority vote of the County Council. Of course, there is no guarantee that the Court would order closure of the road.

Should you need any additional information or assistance from this office, please do not hesitate to call upon me.

Mr. Jon Caine
December 4, 1997
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Thanking you for your attention to this matter, I remain,

Sincerely,

BALLENGER, FEDDER, CAIN & NORTON, L.L.P.



Timothy M. Cain

TMC/mdb

cc: Mr. Harrison E. Orr
Ms. Opal Green
County Council Members
Mr. Jack Hirst